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U.S. Department of Homeland Security
20 Massachusetts Avenue NW, Rm. A3042
Washington, DC 20529



**U.S. Citizenship
and Immigration
Services**

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FILE:

WAC 02 072 51046

Office: CALIFORNIA SERVICE CENTER

Date: DEC 07 2000

IN RE:

Petitioner:

Beneficiary:

PETITION: Petition for Alien Fiancé(e) Pursuant to Section 101(a)(15)(K) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(K)

ON BEHALF OF PETITIONER: SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was denied by the Director, California Service Center, and is now on appeal before the Administrative Appeals Office (AAO). The appeal will be sustained.

The petitioner is a citizen of the United States who seeks to classify the beneficiary, a native and citizen of India, as the fiancé of a United States citizen pursuant to section 101(a)(15)(K) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(K).

The Immigration and Naturalization Service [now Citizenship and Immigration Services] approved the petition on February 2, 2002. The American Embassy in New Delhi, India returned the petition to INS for the first time on December 4, 2002. INS reaffirmed its approval on December 18, 2002. Based on separate interviews conducted with the petitioner and the beneficiary, the Consulate concluded that no petitionable relationship exists between the petitioner and the beneficiary. The American Embassy in New Delhi, India, therefore, again returned the petition to INS on February 20, 2003. On January 24, 2004, CIS notified the petitioner of its intent to deny the petition and accorded the petitioner an opportunity to submit evidence in support of the petition. On February 4, 2004, the petitioner submitted a rebuttal. The director denied the petition after determining that the petitioner had not submitted credible documentary evidence to establish the fiancé relationship within the meaning of section 101(a)(15)(K) of the Act. *Decision of the Director*, dated March 29, 2004.

Section 101(a)(15)(K) of the Act, 8 U.S.C. § 1101(a)(15)(K), provides nonimmigrant classification to an alien who:

- (i) is the fiancé(e) of a U.S. citizen and who seeks to enter the United States solely to conclude a valid marriage with that citizen within 90 days after admission;
- (ii) has concluded a valid marriage with a citizen of the United States who is the petitioner, is the beneficiary of a petition to accord a status under section 201(b)(2)(A)(i) that was filed under section 204 by the petitioner, and seeks to enter the United States to await the approval of such petition and the availability to the alien of an immigrant visa; or
- (iii) is the minor child of an alien described in clause (i) or (ii) and is accompanying, or following to join, the alien.

Section 214(d) of the Act, 8 U.S.C. § 1184(d), states, in pertinent part, that a fiancé(e) petition:

... shall be approved only after satisfactory evidence is submitted by the petitioner to establish that the parties have previously met in person within two years before the date of filing the petition, have a bona fide intention to marry, and are legally able and actually willing to conclude a valid marriage in the United States within a period of ninety days after the alien's arrival. ...

In response to the director's request for evidence and additional information, the petitioner submitted copies of emails, love letters, photos and affidavits by the petitioner and the beneficiary attesting to their relationship.

On appeal, counsel submits a brief, dated April 26, 2004; two statements from the petitioner, undated and dated February 19, 2004, respectively; a letter from the beneficiary, dated June 2, 2004; copies of correspondence between the petitioner and the beneficiary; a copy of the certificate of religious marriage for the couple; letters of support; letters verifying meetings between the petitioner and the beneficiary prior to and after the filing of the petition; letters from physicians attesting to the reverse tubal ligation performed on the petitioner; copies of two photographs; a copy of a hospital admittance card for the petitioner; copies of phone cards used by the petitioner to contact the beneficiary and various receipts of travel.

The AAO finds that the evidence on appeal establishes compliance with the requirements established by statute under sections 101(a)(15)(K) and 214(d) of the Act and by regulation at 8 CFR § 214.2(k). The petitioner provides ample evidence of a bona fide relationship and intention to marry between the petitioner and the beneficiary. Therefore, the appeal will be sustained.

ORDER: The appeal is sustained and the application is approved.